

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN SENATE MAY 27, 2010

AMENDED IN ASSEMBLY MAY 10, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2787

Introduced by Assembly Member Monning
(Principal coauthor: Senator Alquist)

March 9, 2010

An act to add Section 1374.18 to, and to add Division 115 (commencing with Section 136000) to, the Health and Safety Code, relating to health care coverage, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2787, as amended, Monning. Office of the California Health Ombudsman.

Existing law, the federal Patient Protection and Affordable Care Act, requires the United States Secretary of Health and Human Services to award grants to states to enable them to establish, expand, or provide support for offices of health insurance consumer assistance or health insurance ombudsman programs and imposes specified eligibility requirements on states in order to receive those grants.

This bill would establish the Office of the California Health Ombudsman in state government, to be governed by a chief executive officer known as the California Health Ombudsman who would be appointed in an unspecified manner. The bill would require the ombudsman to, among other things, educate consumers on their rights and responsibilities with respect to health care coverage, assist consumers with enrollment in health care coverage, and resolve

problems with obtaining specified premium tax credits. *The bill would also require the ombudsman to operate a specified hotline and Internet Web site and would require that the telephone number and Web site be included on every membership card and evidence of coverage issued to Medi-Cal beneficiaries and to individuals with coverage under health care service plans or health insurers.* The bill would require the ombudsman to apply to the United States Secretary of Health and Human Services for a grant to implement these requirements and would create the California Health Ombudsman Trust Fund as a continuously appropriated fund in the State Treasury for purposes of the act. *The bill would also impose fees on health care service plans and health insurers for purposes of funding these provisions, as specified.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. There is hereby created in state government~~
2 SECTION 1. Division 115 (commencing with Section 136000)
3 is added to the Health and Safety Code, to read:

4
5 DIVISION 115. OFFICE OF THE CALIFORNIA HEALTH
6 OMBUDSMAN
7

8 136000. (a) There is hereby created in state government an
9 independent office of health care coverage consumer assistance
10 called the Office of the California Health Ombudsman. The office
11 shall operate in compliance with the criteria established by the
12 United States Secretary of Health and Human Services and shall
13 be under the direction of a chief executive officer who shall be
14 known as the California Health Ombudsman. The ombudsman
15 shall be appointed by ____.

16 (b) The ombudsman shall, in coordination with the Department
17 of Managed Health Care, the Department of Insurance, *the State*
18 *Department of Health Care Services, the Managed Risk Medical*
19 *Insurance Board, the Exchange, as defined in subdivision (j), and*
20 consumer assistance organizations, receive and respond to inquiries
21 ~~and complaints, complaints, and requests for assistance concerning~~
22 health care coverage with respect to requirements under federal
23 and state law.

1 (c) The ombudsman shall do all of the following with respect
2 to all health care coverage available in California, including
3 coverage available through public programs and coverage available
4 through health care service plans under Chapter 2.2 (commencing
5 with Section 1340) of Division 2 of the Health and Safety Code
6 and health insurers under Part 2 (commencing with Section 10110)
7 of Division 2 of the Insurance Code:

8 (1) Assist with the filing of complaints and appeals, including
9 appeals with the internal appeal or grievance process of the health
10 care service plan, health insurer, or group health plan involved,
11 and providing information about any external appeal process.

12 (2) Collect, track, ~~and quantify~~ *quantify, and analyze* problems
13 and inquiries encountered by consumers with respect to health
14 ~~care—coverage.~~ *coverage, including, but not limited to, the*
15 *complaints reported to the ombudsman under subdivision (h). The*
16 *ombudsman shall publicly report its analysis of these problems*
17 *and inquiries at least annually on the Internet Web site of the*
18 *office. The ombudsman shall track, analyze, and publicly report*
19 *on complaints reported to the ombudsman under subdivision (h)*
20 *according to the nature and resolution of the complaints and the*
21 *health status, age, race, ethnicity, language, geographic region,*
22 *and gender of the complainants in order to identify the most*
23 *common types of problems and the problems faced by particular*
24 *populations. In addition, the ombudsman shall track, analyze, and*
25 *report on those complaints by health insurer or health care service*
26 *plan and by the type of health care coverage program, including*
27 *the timeliness of resolution of the complaints, and shall take into*
28 *account the number of individuals enrolled in each health insurer*
29 *or health care service plan and in each health care coverage*
30 *program.*

31 (3) Educate consumers on their rights and responsibilities with
32 respect to health care coverage *and provide this information in*
33 *plain language.*

34 (4) Assist consumers with enrollment in health care coverage
35 by providing information, referral, and assistance.

36 (5) Resolve problems with obtaining premium tax credits under
37 Section 36B of the Internal Revenue Code.

38 (6) *Provide the assistance and education described in this*
39 *subdivision to consumers with limited English language proficiency*
40 *in their primary language.*

1 (d) (1) *In order to assist consumers in navigating and resolving*
2 *problems with health care coverage and programs, the ombudsman*
3 *shall do both of the following:*

4 (A) *Operate a HealthHelp hotline that is available 24 hours a*
5 *day, seven days a week.*

6 (B) *Operate a HealthHelp Internet Web site, other social media,*
7 *and up-to-date communication systems.*

8 (2) *The telephone number and Internet Web site for the*
9 *HealthHelp hotline described in paragraph (1) shall be included*
10 *on every membership card and evidence of coverage issued to the*
11 *following:*

12 (A) *An individual insured under a policy of health insurance*
13 *regulated under the Insurance Code.*

14 (B) *An individual enrolled in a health care service plan contract*
15 *regulated under Chapter 2.2 (commencing with Section 1340) of*
16 *Division 2.*

17 (C) *A beneficiary of the Medi-Cal program.*

18 ~~(d)~~

19 (e) *In order to carry out the duties described in subdivision (c),*
20 *the ombudsman shall utilize a network of local community-based*
21 *non-profit consumer assistance programs with experience in the*
22 *following areas:*

23 (1) *Assisting consumers in navigating the local health care*
24 *system.*

25 (2) *Enrolling consumers in health care coverage.*

26 (3) *Resolving consumer problems associated with health care*
27 *access.*

28 (4) *Serving consumers with special needs, including, but not*
29 *limited to, consumers with limited English language proficiency,*
30 *low-income consumers, consumers with disabilities, and consumers*
31 *with multiple health conditions.*

32 (5) *Collecting and reporting data on the types of health care*
33 *coverage problems consumers face.*

34 ~~(e)~~

35 (f) *The ombudsman shall collect and report data to the United*
36 *States Secretary of Health and Human Services on the types of*
37 *problems and inquiries encountered by consumers.*

38 (g) *The ombudsman shall develop protocols and procedures for*
39 *the resolution of consumer complaints and the establishment of*

1 responsibility or referral as appropriate with regard to the
2 following agencies:

3 (1) The federal Department of Labor with respect to employee
4 welfare benefit plans regulated under ERISA to enable the
5 ombudsman to provide accurate information and referrals to
6 consumers covered under those plans.

7 (2) The Centers for Medicare and Medicaid Services to enable
8 the ombudsman to give accurate information and referrals for
9 consumers covered under the Medicare Program.

10 (3) The Department of Managed Health Care regarding
11 consumers enrolled in coverage under health care service plans
12 regulated under Chapter 2.2 (commencing with Section 1340) of
13 Division 2. The ombudsman shall also directly assist these
14 consumers.

15 (4) The Department of Insurance regarding consumers with
16 policies of health insurance regulated under the Insurance Code.
17 The ombudsman shall also directly assist these consumers.

18 (5) The State Department of Health Care Services regarding
19 consumers enrolled in the Medi-Cal Program. The ombudsman
20 shall also directly assist these consumers.

21 (6) The Managed Risk Medical Insurance Board regarding
22 consumers enrolled in the Healthy Families Program (Part 6.2
23 (commencing with Section 12693) of Division 2 of the Insurance
24 Code), the Access for Infants and Mothers Program (Part 6.3
25 (commencing with Section 12695) of Division 2 of the Insurance
26 Code), the California Major Risk Medical Insurance Program
27 (Part 6.5 (commencing with Section 12700) of Division 2 of the
28 Insurance Code), and the federal temporary high risk pool
29 established under Section 1101 of the federal Patient Protection
30 and Affordable Care Act (Public Law 111-148). The ombudsman
31 shall also directly assist these consumers.

32 (7) The Exchange regarding consumers enrolled in coverage
33 pursuant to the Exchange. The ombudsman shall also directly
34 assist these consumers.

35 (h) The Department of Managed Health Care, the Department
36 of Insurance, the State Department of Health Care Services, the
37 Managed Risk Medical Insurance Board, the State Department of
38 Public Health, and the Exchange shall report data and other
39 information to the ombudsman regarding consumer complaints
40 submitted to those agencies, including the nature of the complaints,

1 *the resolution of the complaints and the timeliness thereof, and*
2 *the health status, age, race, ethnicity, language, geographic region,*
3 *and gender of the complainants. This information shall be reported*
4 *according to the particular health insurer or health care service*
5 *plan involved.*

6 ~~(f)~~

7 (i) (1) The ombudsman shall apply to the United States
8 Secretary of Health and Human Services for a grant under Section
9 2793 of the federal Public Health Service Act, as added by Section
10 1002 of the federal Patient Protection and Affordable Care Act
11 (Public Law 111-148), to implement the requirements of this
12 section.

13 (2) *The office and the services provided by local consumer*
14 *assistance programs under subdivision (e) shall be also be funded*
15 *out of licensure fees on health care service plans, consistent with*
16 *Section 1356, and out of fees on health insurers by assessing a per*
17 *policy assessment. The fees shall be set by the Director of the*
18 *Department of Managed Health Care or the Insurance*
19 *Commissioner, as applicable, in consultation with the ombudsman.*
20 *The fees shall be allocated based on the number of covered lives*
21 *and shall be the same per covered life regardless of the regulator.*

22 (3) *To the extent permitted by federal law, the ombudsman may*
23 *seek federal financial participation for assisting beneficiaries of*
24 *the Medi-Cal program.*

25 ~~(g) For purposes of this section, “group health plan” has the~~

26 (j) *For purposes of this section, the following definitions shall*
27 *apply:*

28 (1) *“Exchange” means the American Health Benefit Exchange*
29 *established in California under Section 1311 of the federal Patient*
30 *Protection and Affordable Care Act (Public Law 111-148).*

31 (2) *“Group health plan” has the same meaning set forth in*
32 *Section 2791 of the federal Public Health Service Act (42 U.S.C.*
33 *300gg-91).*

34 SEC. 2.—

35 136020. (a) The California Health Ombudsman Trust Fund is
36 hereby created in the State Treasury for the purpose of this ~~act~~
37 *division*. Notwithstanding Section 13340 of the Government Code,
38 all moneys in the fund shall be continuously appropriated without
39 regard to fiscal year for the purposes of this ~~act~~ *division*. Any
40 moneys in the fund that are unexpended or unencumbered at the

1 end of the fiscal year may be carried forward to the next succeeding
2 fiscal year.

3 (b) The ombudsman shall establish and maintain a prudent
4 reserve in the fund.

5 (c) Notwithstanding Section 16305.7 of the Government Code,
6 all interest earned on moneys that have been deposited in the fund
7 shall be retained in the fund and used for purposes consistent with
8 this ~~act~~ *division*.

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